

AMENDED IN SENATE APRIL 30, 2012

SENATE BILL

No. 1488

Introduced by Senator Yee

February 24, 2012

An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Yee. Healing arts: traditional Chinese Medicine traumatologist certification.

Existing law, the Acupuncture Licensure Act, establishes the Acupuncture Board and makes it responsible for enforcing and administering the act, including licensing persons who meet specified licensure requirements. Under the act, licensees are titled "acupuncturists," and are authorized to perform designated activities pursuant to their license. The unlawful practice of acupuncture and any other violation of the act is a crime.

This bill would establish the Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a traditional Chinese Medicine traumatologist to an applicant who meets certain training and clinical experience requirements and pays a specified fee. This bill would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.

This bill would limit the timeframe for new applications to the period from January 1, 2013, to December 15, 2013. Thereafter, the council may only issue renewals of current certificates.

This bill would set forth procedures for the renewal of a certificate to perform traditional Chinese Medicine traumatology and would establish specified fees in that regard.

This bill would also require specified treatment procedures to be performed under the supervision of an orthopedic surgeon and prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of “certified traditional Chinese Medicine traumatologist” without meeting these certification requirements *and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder.*

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12.5 (commencing with Section 4979.1)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 12.5. TRADITIONAL CHINESE MEDICINE
6 TRAUMATOLOGY
7

8 4979.1. As used in this chapter:

9 (a) “Certified traditional Chinese Medicine traumatologist”
10 means a person who has been certified by the Traditional Chinese
11 Medicine Traumatology Council to perform traditional Chinese
12 Medicine traumatology.

13 (b) “Council” means the California Traditional Chinese
14 Medicine Traumatology Council.

15 ~~(b)~~
16 (c) “Traditional Chinese Medicine traumatology” includes a
17 range of treatments to address both acute and chronic
18 musculoskeletal conditions, as well as many nonmusculoskeletal

1 conditions. Techniques include, but are not limited to, brushing,
2 kneading, rolling, pressing, and rubbing the areas between each
3 of the joints to open the body's defensive chi and stimulate the
4 energy movement in both meridians.

5 ~~4979.2. The Traditional Chinese Medicine Traumatology~~
6 ~~Council shall be established as a nonprofit organization for the~~
7 ~~purpose of developing standards for, and certifying the practice~~
8 ~~of, traditional Chinese Medicine traumatology.~~

9 ~~4979.3. (a) (1) The California Traditional Chinese Medicine~~
10 ~~Traumatology Council shall be established as a nonprofit~~
11 ~~organization exempt from taxation under Section 501(c)(3) of the~~
12 ~~Internal Revenue Code, for the purpose of developing standards~~
13 ~~for, and certifying the practice of, traditional Chinese Medicine~~
14 ~~traumatology. The council may commence activities as authorized~~
15 ~~by this section after submitting a request to the Internal Revenue~~
16 ~~Service seeking the exemption.~~

17 (b) (1) The council shall consist of seven members, composed
18 of three representatives from the clinical settings of traumatology,
19 two representatives from the California Orthopaedic Association,
20 and one representative each from the Medical Board of California
21 and the California Medical Association.

22 (2) Representatives from the clinical settings of traumatology
23 shall be selected by professional societies, associations, or other
24 entities, whose memberships are comprised solely of practitioners
25 of traditional Chinese Medicine traumatology.

26 (3) To qualify, a professional society, association, or entity shall
27 have a dues-paying membership in California of at least 30
28 individuals for the last three years and shall have bylaws that
29 require its members to comply with a code of ethics.

30 ~~(b)~~

31 (c) (1) Subject to subdivision ~~(d)~~ (e), the council shall meet and
32 confer to determine the certification standards, including the level
33 of experience and training needed for an individual to qualify for
34 traditional Chinese Medicine traumatology certification.

35 (2) The council shall develop the application form for
36 certification.

37 (3) The meetings and deliberations of the council shall be subject
38 to the provisions of the Bagley-Keene Open Meeting Act (Article
39 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
40 Division 3 of Title 2 of the Government Code).

1 ~~(e)~~

2 ~~(d)~~ The council shall issue a certificate for certified traditional
3 Chinese Medicine traumatology to any person who makes an
4 application and meets all of the following requirements, as
5 determined by the council pursuant to subdivision ~~(d)~~ *(e)*:

6 (1) Is at least 18 years of age.

7 (2) Furnishes satisfactory evidence of training and clinical
8 experience that meets the standards established by the council.

9 (3) Is not subject to denial pursuant to Division 1.5 (commencing
10 with Section 475).

11 ~~(d)~~

12 ~~(e)~~ The council shall evaluate whether an applicant meets the
13 certification standards, including the level of experience and
14 training to sufficiently qualify for the traumatology certification.

15 ~~(e)~~

16 ~~(f)~~ An individual who is not qualified to receive a certificate
17 under this section, or who fails to apply for certification under this
18 section, shall not hold himself or herself out as a certified
19 traditional Chinese Medicine traumatologist pursuant to this
20 section.

21 4979.4. (a) A certified traditional Chinese Medicine
22 traumatologist, when engaging in traditional Chinese Medicine
23 traumatology manipulation techniques to realign the
24 musculoskeletal and ligamentous relationships, shall be supervised
25 by a physician and surgeon who has completed an orthopaedic
26 residency program. The extent of the relationship between a
27 traditional Chinese Medicine traumatologist and orthopedic surgeon
28 regarding those manipulation techniques shall be determined by
29 the council after the qualifications necessary for certification are
30 defined and adopted by the council.

31 (b) A certified traditional Chinese Medicine traumatologist shall
32 not practice medicine, as defined in Section 2052.

33 (c) A certified traditional Chinese Medicine traumatologist shall
34 not practice within the scope of activities regulated by the State
35 Board of Chiropractic Examiners.

36 4979.5. (a) An applicant for traditional Chinese Medicine
37 traumatology certification shall, commencing January 1, 2013,
38 until December 15, 2013, file an application for a certificate for
39 traditional Chinese Medicine traumatology with the council.

1 (b) On and after December 16, 2013, the council shall not issue
2 an initial certificate to any applicant.

3 (c) On and after December 16, 2013, the council may issue only
4 a renewal of a certificate under this section.

5 (d) An individual who is not qualified to receive a certificate
6 under this section, or who fails to apply for certification under this
7 section by December 15, 2013, shall not hold himself or herself
8 out as a certified traditional Chinese Medicine traumatologist.

9 4979.6. An applicant for certification as a traditional Chinese
10 Medicine traumatologist shall pay an application fee in a reasonable
11 amount, not to exceed two hundred dollars (\$200) for the regulatory
12 cost to the council of processing the application, when submitting
13 his or her application to the council.

14 4979.7. A certified traditional Chinese Medicine traumatologist
15 shall renew his or her certificate every two years.

16 4979.8. An expired certificate may be renewed at any time
17 within six months after its expiration. The holder of the certificate
18 shall pay all accrued and unpaid renewal fees, plus a delinquency
19 fee.

20 (a) The renewal fee shall be one hundred dollars (\$100).

21 (b) The delinquency fee shall be twenty-five dollars (\$25).

22 (c) The fee for a duplicate or replacement engraved wall
23 certificate shall be fifteen dollars (\$15).

24 (d) The fee for a duplicate or replacement renewal receipt/pocket
25 certificate shall be ten dollars (\$10).

26 4979.9. Moneys received under this section shall be utilized
27 by the council to pay for the costs associated with administering
28 this chapter.

29 4979.10. It is an unfair business practice for any person to hold
30 himself or herself out as a certified traditional Chinese Medicine
31 traumatologist or use the title of “certified traditional Chinese
32 Medicine traumatologist” without meeting the requirements of
33 this chapter.

34 4979.11. *It is a violation of this chapter for a certificate holder*
35 *to commit, and the council may deny an application for a certificate*
36 *or suspend or revoke a certificate for, any of the following:*

37 (a) *Unprofessional conduct, including, but not limited to, denial*
38 *of licensure or certification, revocation, suspension, restriction,*
39 *or any other disciplinary action against a certificate holder by*
40 *another state or territory of the United States, by any other*

1 government agency, or by another entity. A certified copy of the
2 decision, order, or judgment shall be conclusive evidence of these
3 actions.

4 (b) Procuring a certificate by fraud, misrepresentation, or
5 mistake.

6 (c) Violating or attempting to violate, directly or indirectly, or
7 assisting in or abetting the violation of, or conspiring to violate,
8 any provision of this chapter or any rule or bylaw adopted by the
9 council.

10 (d) Conviction of any felony, or conviction of a misdemeanor
11 that is substantially related to the qualifications or duties of a
12 certificate holder, in which event the record of the conviction shall
13 be conclusive evidence of the crime.

14 (e) Impersonating an applicant or acting as a proxy for an
15 applicant in any part of the application process or any part of
16 satisfying the standards set by the council referred to under this
17 chapter for the issuance of a certificate.

18 (f) Impersonating a certified traditional Chinese Medicine
19 traumatologist, or permitting or allowing an uncertified person
20 to use a certificate.

21 (g) Committing any fraudulent, dishonest, or corrupt act that
22 is substantially related to the qualifications or duties of a certificate
23 holder.

24 (h) Committing any act punishable as a sexually related crime.
25 ~~4979.11.~~

26 4979.12. This chapter shall remain in effect only until January
27 1, 2017, and as of that date is repealed, unless a later enacted
28 statute, that is enacted before January 1, 2017, deletes or extends
29 that date.